

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 07-80138-Cr-MARRA/VITUNAC(s)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANK SARCONA,

Defendant.

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PRETRIAL DETENTION ORDER

The Court, pursuant to 18 U.S.C. §3142, commonly known as the Bail Reform Act of 1984, hereby ORDERS that the Defendant, FRANK SARCONA be detained pursuant to the provisions of Sections (e) and (f).

The Court specifically finds that no conditions or combinations of conditions will reasonably assure the appearance of the Defendant as required and the safety of the community. The Court makes the following findings of fact with respect to the order for detention:

(A) The Weight of the Evidence Against the Defendant and the Nature and Circumstances of the Offense Charged Pursuant to § 3142(g)(1), (2)).

Pursuant to the Government's request for pretrial detention as to this Defendant, a hearing was held on September 17, 2007. The Defendant is charged in a multi-count superseding indictment with conspiracy to commit mail fraud, wire fraud, and criminal contempt, mail fraud, wire fraud, conspiracy to money launder, promotion money laundering, concealment money laundering, money laundering transactions over \$10,000, misbranding of food, introduction of misbranded food, contempt, and forfeiture. In its proffer, the Government contended that it was seeking detention on the grounds of risk of flight, economic danger to the community and obstruction of justice as to this Defendant.

Pursuant to 18 U.S.C. § 3142(f)(2) the Court finds that this is a case that involves a serious risk that the Defendant will obstruct justice, will attempt to threaten injure or intimidate a prospective juror, and will flee.

The weight of the evidence against the Defendant is substantial. According to the government proffer and the superseding indictment, the defendant was an organizer of an over \$10 million scheme to defraud with over 250 victims. The defendant ignored a preliminary and a permanent injunction, by engaging in business related to weight loss, in violation of court orders. The defendant faces a

sentence of 15-20 years under the guidelines. The defendant operated a lipoban clinic where he marketed lipoban as a cure all weight loss dietary supplement. He made false claims of legitimacy, including that the clinic was an health care clinic involved in medical clinic studies approved by Dr. Joseph Maya from Boca Raton and under the direction of Dr. Forgione, when the clinic was nothing more than a mail order house, Dr. Joseph Maya was actually Dr. Jose Maya Behar in Mexico City and not licensed in the U.S., and Dr. Forgione was a chiropractor in New York. The defendant misrepresented endorsers, and misrepresented that lipoban had been clinically proven to cause rapid weight loss without diet or exercise.

The FTC sued the defendant for similar activity in 1997 and obtained injunctions against the defendant. Within months of the injunctions, the defendant started the instant business using a false name and funneled payments to himself through business and friends names. The receiver in the Bahamas case was able to bring over \$1 million back from accounts in the Bahamas. The defendant last moved money offshore on 6/22/07. There is evidence that the defendant may have moved over \$25 million offshore. The defendant has violated 6 state judgments, a settlement agreement, the injunctions, and has provided false testimony. Within days of an order being served by the receiver on August 23-4, 2007, the defendant moved money out of his account in violation of court order.

The defendant has declared that he is independent and not subject to the jurisdiction of the United States. He has paid no money to the IRS since 1999. He has threatened to use arms and has talked about murder and about being above the law. He neglected to open his door for law enforcement, so that his girlfriend, the subject of a contempt order, could attempt to escape out the back door.

(C) The History and Characteristics of the Defendant Pursuant to § 3142(g)(3)

FRANK SARCONA was born in Brooklyn in 1952. He has lived in Palm Beach County for the past 12 years. He admits traveling to the Bahamas for pleasure three years ago. He is divorced with no children. His parents are deceased and he has no siblings. He admits to no assets over \$1,000, and \$75,000 in debts. Miami, Florida and has been a continuous resident of South Florida since 1995. A federal fraud charge against him in 1981 was dismissed.

(D) Whether there are Conditions of Release that will Reasonably Assure the Appearance of the Defendant as Required and the Nature and Seriousness of the Danger to any Person or the Community that Would be Posed by the Defendant's Release Pursuant to § 3142(g)

The Court finds that there are no conditions of release which will reasonably assure the appearance of the Defendant as required and the safety of any other person and the community. Such finding is based on the following

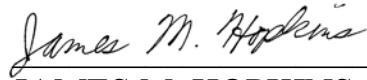
factors: (1) the seriousness of the charges; (2) the strength of the government's case; (3) the Defendant's likely sentence; (4) the violations of court orders; (5) the attempt to help his girlfriend evade law enforcement; (6) his denial of government authority; (7) his threats; and (8) his hiding money in offshore accounts and in surrogate accounts. In light of the foregoing, the Court finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of the community. This Court also finds by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required at future proceedings.

Accordingly, **IT IS HEREBY ORDERED** that the Defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

The Court also directs that the Defendant be afforded reasonable opportunity for private consultation with counsel, and that, on order of a court of the United States, or on request of an attorney for the Government, the person in charge of the corrections facility in which the Defendant is confined deliver the Defendant to a United States Marshal for the purpose of an appearance in

connection with a court proceeding.

DONE and ORDERED in Chambers this 25th day of September 2007, at
West Palm Beach in the Southern District of Florida.

A handwritten signature in cursive script, reading "James M. Hopkins", is positioned above a horizontal line.

JAMES M. HOPKINS
UNITED STATES MAGISTRATE JUDGE

Copies to:
counsel of record
U.S. Marshal
U.S. Pretrial Services